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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE – Interim Chairman
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Arizona Corporation Commission

IN THE MATTER OF THE PROPOSED
AMENDMENTS TO THE PIPELINE SAFETY
RULES A.A.C. R14-5-202, R14-5-203, R14-5-204,
R14-5-205, AND R14-5-207.

DOCKET NO. RG-00000A-15-0098

PROCEDURAL ORDER

BY THE COMMISSION:

On April 23, 2015, the Commission issued Decision No. 75023, directing the Commission's Safety Division ("Staff") to prepare and file a Notice of Rulemaking Docket Opening ("NRDO") and a Notice of Proposed Rulemaking ("NPRM") to adopt revisions to A.A.C. R14-5-202, R14-5-203, R14-5-204, R14-5-205, and R14-5-207, primarily updating incorporations by reference of federal regulations ("CFRs"), but also inserting a new R14-5-202(T)¹ "for clarity and to specify the CFR provisions . . . that it modifies."

On May 15, 2015, the NRDO and NPRM were published in the *Arizona Administrative Register*. The preliminary summary of the economic, small business, and consumer impact, in the Preamble to the NPRM, included the following statements related to R14-5-202(T): "Operators of Liquefied Natural Gas facilities will experience some increased testing costs when welding is performed. However, because welding is a nonrecurring activity, the additional cost is anticipated to be minimal."

On June 18, 2015, an oral proceeding was held for the NPRM, with no members of the public attending to provide comment. Additionally, no member of the public filed written comments regarding the NPRM.

...

¹ The proposed R14-5-202(T) read as follows: "An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303."

1 On August 26, 2015, the Commission issued Decision No. 75250, adopting the text of the rules
2 as set forth in the NPRM, with revisions to the parenthetical dates for citations to CFRs and a federal
3 form incorporated by reference therein; adopting an Economic, Small Business, and Consumer Impact
4 Statement ("EIS");² and directing Staff to prepare a Notice of Final Rulemaking ("NFRM") package
5 and submit it to the Office of the Attorney General ("OAG").

6 Subsequent to the filing of the NFRM packet with the OAG on September 16, 2015, Staff
7 learned that the OAG considered the modifications to the date parentheticals adopted in Decision No.
8 75250 to constitute a substantial change under A.R.S. § 41-1025. The OAG indicated that the
9 Commission could complete an emergency rulemaking, under A.R.S. § 41-1026, to make the rule
10 changes adopted in Decision No. 75250 effective pending completion of additional regular rulemaking.

11 On October 22, 2015, the Commission issued Decision No. 75289, directing Staff to prepare
12 and file with the OAG a Notice of Emergency Rulemaking ("NERM") adopting the rule revisions
13 approved in Decision No. 75250.

14 On November 25, 2015, the Commission issued Decision No. 75339, directing Staff to prepare
15 and file a Notice of Supplemental Proposed Rulemaking ("NSPRM") including the text attached to the
16 Decision and directing the Hearing Division to hold an oral proceeding on the NSPRM on January 19,
17 2016.

18 On December 11, 2015, the NSPRM was published in the *Arizona Administrative Register*.

19 On January 1, 2016, the NERM was published in the *Arizona Administrative Register*, with an
20 effective date of December 15, 2015, the date that the NERM was filed with the Office of the Secretary
21 of State by the OAG.

22 On January 19, 2016, Spectrum LNG ("Spectrum"), the owner of Desert Gas, LP ("Desert
23 Gas") and a liquefied natural gas plant in Ehrenberg, Arizona, filed comments regarding the NSPRM.
24 Spectrum took issue with R14-5-202(T), as proposed in the NSPRM, and provided a list of concerns
25 related to that provision as well as the rulemaking process. A representative for Spectrum also appeared
26 at the oral proceeding held that day, as the only member of the public commenting; stated that
27

28 ² The Decision directed Staff to include in the EIS language concerning the increased testing costs for LNG facilities when welding is performed.

1 comments had been filed; expressed a desire for Spectrum to have additional opportunity to provide
2 input; and requested that any questions regarding the written comments be directed to Raymond
3 Latchem, Spectrum's President.

4 On January 26, 2016, Staff filed its Responses to Spectrum's Comments.

5 Although Staff has provided a response to each of the concerns expressed in Spectrum's letter,
6 the Commission needs additional information to determine whether the public interest will be best
7 served by adoption of R14-5-202(T) in this regular rulemaking. Thus, Staff will be required to file
8 additional information regarding specific issues raised by Spectrum, and Spectrum and any other
9 interested person will be permitted to file responses to Staff's additional filing.

10 IT IS THEREFORE ORDERED that **Staff shall, on or before February 22, 2016**, file a
11 narrative response to each of the following questions, along with any available supporting data and
12 documentation:³

13 1. What are the technologies available to non-destructively test welds as required under
14 R14-5-202(T)?

15 2. What is the estimated cost to test a weld using each of the technologies identified in
16 response to question 2?

17 3. To Staff's knowledge, has any other U.S. state, any other jurisdictional governmental
18 entity,⁴ or any recognized industry standard-setting entity⁵ adopted a requirement substantially similar
19 to that in R14-5-202(T) or more stringent than the requirement in 49 CFR 193.203? If so, please
20 identify each such entity and provide a copy of the requirement adopted.

21 4. What caused Staff to conclude that it is necessary to require nondestructive testing of
22 each weld performed on site at an LNG facility on newly installed, replaced, or repaired LNG pipeline
23 or appurtenances?

24
25 ³ If a supporting document is voluminous, rather than providing the entire document, Staff may provide the most relevant
26 excerpt/s along with full identification of the document, its proponent, any publication in which it appears, and where it is
available.

27 ⁴ "Jurisdictional governmental entity" means any official governing body with regulatory jurisdiction over a particular
industry, practice, or region in the U.S. or any other country.

28 ⁵ "Recognized industry standard-setting entity" means an organized body that is nationally or internationally recognized
for its knowledge and expertise in a particular field and that adopts uniform standards to be applied in that field, such as the
National Fire Protection Association or the International Code Council.

1 5. Is Staff aware of any incidents of weld failure in LNG facility pipeline or appurtenances
2 in the U.S. or any other country? If yes, please identify where and when the incident occurred, identify
3 what entity or entities owned and operated the affected LNG facility pipeline or appurtenances,
4 describe any findings regarding the cause of the incident and identify by whom those findings were
5 made, and describe the physical and economic damages caused by the incident.

6 6. What is the operating pressure present in typical LNG pipeline and appurtenances used
7 in the same manner as those at Desert Gas's LNG facility?

8 7. What is the operating pressure present in typical natural gas transmission pipelines for
9 which 100 percent of new welds must be nondestructively tested?

10 8. What are the temperatures present in typical LNG pipeline and appurtenances used in
11 the same manner as those at Desert Gas's LNG facility, and what impact do those temperatures have
12 upon pipeline and weld materials?

13 9. What are the temperatures present in the typical natural gas transmission pipelines
14 described in question 7, and what impact do those temperatures have upon pipeline and weld materials?

15 10. Why does Staff believe that it is not necessary to nondestructively test all welds made
16 by a manufacturer of a prefabricated assembly being newly installed at an LNG facility (i.e., that it is
17 only necessary to nondestructively test the welds made on site to connect the prefabricated assembly
18 to the existing LNG facility pipeline and appurtenances)?

19 11. To Staff's knowledge, has any other U.S. state, any other jurisdictional governmental
20 entity,⁶ or any recognized industry standard-setting entity⁷ considered and decided not to adopt either
21 a requirement substantially similar to that in R14-5-202(T) or a requirement more stringent than the
22 requirement in 49 CFR 193.203? If so, please identify each such state or entity and provide a copy of
23 any documentation regarding the entity's consideration and decision not to adopt the requirement.

24 IT IS FURTHER ORDERED that **Desert Gas and any other interested person may, on or**
25 **before March 17, 2016**, file a narrative response to each of Staff's responses to the questions set forth
26 above, along with any available supporting data and documentation.

27 _____
28 ⁶ "Jurisdictional governmental entity" has the same meaning as in note 4.

⁷ "Recognized industry standard-setting entity" has the same meaning as in note 5.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 28th day of January, 2016.


SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 28th day of January, 2016, to:

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